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APR 28 2017

DIV. OF OIL, GAS & MINING

U.S. Department of Interior
Bureau of Land Management
Attention: Jacob Palma
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Price Field Office
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Re: **PacifiCorp's Response to Sierra Club and HEAL Utah's Revised Comments to USFS's and BLM's Joint March 7, 2017 Revised Environmental Assessment, Draft Decision Notice and FONSI, and Supporting Documentation for the Proposed Deer Creek Mine Closure Water Pipeline**

PacifiCorp submits these comments in response to Sierra Club and Heal Utah's revised comments to the U.S. Forest Service and Bureau of Land Management's March 7, 2017, revised environmental assessment.

I. BACKGROUND

Because PacifiCorp has ceased its mining operations at the Deer Creek mine, it must comply with the Utah Division of Oil, Gas and Mining's mine closure regulations. Those regulations require PacifiCorp to manage the intercepted groundwater that will naturally accumulate in the mine. In light of the restrictions on the discharge of such intercepted groundwater, PacifiCorp has proposed to pipe the intercepted groundwater to its lined Raw Water Pond at its nearby Huntington power plant, where the intercepted groundwater will be combined with water diverted from Huntington Creek. This combined water in the Raw Water Pond will be consumed almost entirely by the plant in its normal operations. In fact, only about 3% of that combined water coming from the Raw Water Pond will not be consumed in the plant, which will be routed to a nearby lined irrigation pond at the plant. That water sent to the irrigation pond will be further diluted, and then used to irrigate at the adjacent research farm. The disposition of the water will be conducted in accordance with the plant's Groundwater Discharge Permit, which will be modified, if necessary, to accommodate any changes associated with the project described herein.

PacifiCorp's proposal requires a pipeline across federal lands. PacifiCorp submitted a SF-299 application jointly to the U.S. Forest Service ("USFS") and the U.S. Department of Interior, Bureau of Land Management ("BLM")(together, the "Agencies") for a right-of-way in

which to construct a pipeline from the Deer Creek mine's Rilda Canyon Right Fork portal down to the Raw Water Pond. On September 27, 2016, the Agencies published their jointly developed Environmental Assessment ("EA"). On November 21, 2016, the Sierra Club and Heal Utah (together, the "Sierra Club") submitted to USFS various objections to the EA. On December 15, 2016, USFS issued a letter indicating that it would undertake additional analysis to further "consider the direct, indirect, and cumulative effects of connected actions related to intercepted groundwater disposal as part of the Deer Creek Mine reclamation process ... [and] to coordinate with both state and federal agencies to accomplish a hard look at the potential impacts of intercepted groundwater disposal prior to making a final decision"

The Agencies have undertaken and completed that additional analysis to further consider the potential impacts of the connected intercepted groundwater, which is reflected in a revised EA jointly developed and issued by the Agencies on March 7, 2017 ("Revised EA"). The Revised EA includes a Supplemental Hydrology Report dated February 28, 2017, an Updated Wildlife Resources Report dated March 2, 2017, and an Updated Biological Assessment/Biological Evaluation dated March 2, 2017, all of which were incorporated into the Revised EA. In conjunction with the issuance of the Revised EA, USFS issued a draft Decision Notice and Finding of No Significant Impact ("DN & FONSI") and BLM issued an unsigned FONSI.

On April 7, 2017, Sierra Club submitted comments to the Revised EA ("Revised Comments"). Many of the issues raised in Sierra Club's Revised Comments are duplicative of those raised in its original Objections. We hope this Response will be helpful to you in evaluating Sierra Club's Revised Comments. For ease of reference, the discussion below is organized and sequenced similarly to Sierra Club's Revised Comments.

II. GENERAL ISSUES

A. **Issues Raised in the Initial Objections Had Been Adequately Addressed in the Initial EA, or Were Further Addressed in the Revised EA**

1. As to the first bullet on pages 2-3 of the Revised Comments: This issue was already adequately addressed in the initial EA. *See* PacifiCorp's 12/21/16 Response to Sierra Club's Initial Objections, Response #11. Nevertheless, this issue was further addressed in the Revised EA. As explained in more detail below, approximately 97% of the intercepted groundwater from the mine that is put into the Raw Water Pond will be consumed by evaporation in the plant. The remainder will end up in the irrigation reservoir and be further diluted, to then be used to irrigate the fields at the research farm. None of the intercepted mine drain water will be discharged to Huntington Creek.

2. As to the first bullet on pages 2-3: This issue was already adequately addressed. *See* PacifiCorp's 12/21/16 Response to Initial Objections, Response #10. Nevertheless, this issue was further addressed in the Revised EA. As explained in more detail below, Sierra Club has no basis for determining the "likelihood" of these "salts" occurring in the mine water. With the exception of iron, none of the elements mentioned have been detected at levels in excess of the applicable standards.

3. As to the third bullet: This issue was already adequately addressed. *See* PacifiCorp's Response to Initial Objections, Response #12. Nevertheless, this issue was further addressed in the Revised EA. As explained in more detail below, the Huntington Plant Ground Water Discharge permit does not specifically mention mine drainage. Approximately 97% of the mine drain water that is put into the Raw Water Pond will be consumed by evaporation in the plant. The remainder will end up in the irrigation reservoir, to be used to irrigate the fields. None of the water will be discharged to Huntington Creek. None of the mine water will be "discharged" into ground water or surface water.

4. Fourth bullet: This issue was already adequately addressed. *See* Response to Initial Objections, Responses #7 (3rd bullet) & #10. Nevertheless, this issue was further addressed in the Revised EA. As explained in more detail below, Sierra Club's vague reference to "baseline...conditions at the power plant site" is insufficiently specified. PacifiCorp has already refuted the assertion that the mine water is "highly contaminated." Iron is the only element of concern, and was historically elevated slightly above background levels, and has been shown to dissipate over time at both Crandall Canyon and Deer Creek Mines.

5. Fifth: This issue was already adequately addressed. *See* Response to Initial Objections, Responses #17. Nevertheless, this was further addressed in the Revised EA, as explained in sections II.B., D. and E below.

6. Sixth: This issue was already addressed. *See* Response to Initial Objections, Responses #1 and #5. Nevertheless, this was further addressed in the Revised EA. *See* Revised EA, at p. 16; POD, at p. 6.

7. Seventh: This issue was already addressed. *See* Response to Initial Objections, Responses #3 and #18.

8. Eighth: This issue was addressed. *See* Response to Initial Objections, Responses #21.

9. Ninth: This issue was addressed. *See* Response #21. Nevertheless, it was further addressed in the Revised EA.

10. Tenth: This issue was addressed. *See* Response #22. Nevertheless, it was further addressed in the Revised EA. *See* section II.F. below.

11. Eleventh: This issue was addressed in the Revised EA, within the Updated BA/BE, pages 7–10, 14, 22–24.

12. Twelfth: This issue was addressed. *See* Response #12. Nevertheless, it was further addressed in the Revised EA. *See* Revised EA, Interdisciplinary Team Checklist, p. 38. *See also*, section III.C. below.

13. Thirteenth: This issue was addressed. *See* Responses #1 and #5. Nevertheless, this was further addressed in the Revised EA. *See* Revised EA, at p. 16; POD, at p. 6. No treatment for "acid mine drainage" will be necessary. If any treatment were necessary, it would be at a site already designated and included within the approved Deer Creek Mine

permit area. The amendment to the permit to include the pipeline route and treatment plant area was approved by UDOGM on April 7, 2017.

14. Fourteenth: This issue was further addressed in the Revised EA. *See* Supplemental Hydrology Report. *See also*, section III.C. below.

B. Purported New Flaw in Revised EA is Unsupported

Sierra Club asserts that the Revised EA “contains new flaws independent of the original EA.” Revised Comments, p. 3. The purported new flaw is the Agencies’ assertion that “[t]he management of intercepted groundwater . . . is a private action. The BLM and FS have no control or authority in the management of the intercepted groundwater . . . Although the management of the water is a connected action . . . , it is a non-federal action, and neither the FS nor the BLM is required to consider alternatives available to the non-federal party for its action.” Revised EA, p. 11. Contrary to Sierra Club’s contention, the assertion does address the Agencies’ obligation to assess reasonably foreseeable impacts of the proposed action, including those on private properties and waters downstream. Although the Agencies have not dictated the method in which the intercepted groundwater must be managed (containment, treatment, etc.), they have required an evaluation of the potential impacts of the selected method.

C. Management Directives

Sierra Club paints an erroneous and unsupported picture that the proposal would “dispose of more than 315 million gallons . . . in a pond with a history of leakage....” Revised Comments, p. 4. In the original EA, a hydrologic analysis evaluated the projected blended ratio of the diverted water from Huntington Creek and the intercepted groundwater from the Deer Creek mine. That analysis concluded that blending the intercepted groundwater with the water from Huntington Creek would not cause any significant geochemical change to the water stored in the Raw Water Pond. As part of the additional analysis that was conducted as reflected in the Revised EA, USFS conducted a supplemental hydrologic analysis, further confirming that blending the intercepted groundwater with the water diverted from the Huntington Creek would not cause any material changes to the water in the Raw Water Pond. *See* Supplemental Hydrology Report, pp. 9-10.

As addressed in detail in paragraph II.E. below, there is no “disposal” of anything (let alone 315 million gallons) into the lined Raw Water Pond. All of the blended water in the Raw Water Pond goes into the plant operations, primarily to be evaporated. Moreover, as the Revised EA notes, “[w]hen the groundwater is mixed with the diversion water in the raw water pond, the water would still meet EPA National Primary Drinking Water standards (USDA FS 2017b).” Revised EA, p. 20. When leaks are identified, PacifiCorp has made immediate repairs. PacifiCorp conducts routine inspections of the Raw Water Pond, including of the dam and embankment structures to verify integrity. Even if there were a future leak in the liner, the relatively small ratio and amount of intercepted groundwater in the Raw Water Pond (approx. 3%) would cause no environmental harm to the hydrologic balance. (*See* PacifiCorp’s 4/7/17 Comment #8 & 9 for discussion of mine water compliance to the Numeric Criteria for Aquatic Wildlife – 3C). The Revised Comment also erroneously asserts that a portion of the mine drainage would be land-applied” at a nearby research farm with a “history of discharging

pollutants into the immediately adjacent Huntington Creek.” Revised Comments, p. 4. There are no authorized discharges or leaks from the Raw Water Pond, the irrigation pond or the irrigation fields into Huntington Creek; likewise, there is nothing in the record of any ongoing or current unauthorized discharges or leaks from the Raw Water Pond, the irrigation pond or the irrigation fields into Huntington Creek.

Based on Sierra Club’s mischaracterization of the quality of the blended water in the Raw Water Pond, and the unsupported speculation about the integrity of the Pond’s liner, it argues that the proposal “fails to comply with the [Agencies’] management directives.” Revised Comments, p. 4. More specifically, as to the referenced BLM goals and objectives to “[m]aintain or restore the . . . integrity of the area’s soil and waters,” “maintain or restore overall watershed health,” “consider . . . relative benefit to the public,” etc., the Supplemental Hydrology Report confirms that the blended water in the Raw Water Pond “would meet the Utah Numeric Criteria for Aquatic Wildlife (Huntington Creek 3C),” and that based on the Pond’s underlying liner, “[g]roundwater from Deer Creek Mine to the raw water pond will not contribute to the degradation of the underlying shale aquifer.” Supplemental Hydrology Report, p. 9. The Revised EA similarly concludes that “[i]mplementation of the proposed action would not adversely affect water quality in the long-term, nor contribute to the existing water quality impairments defined by the Utah DEQ,” and would “avoid potential contamination of the water resources on federal lands” Revised EA, pp. 2 & 21.

The Revised Comments conspicuously avoid reference to some of the other agency goals and objectives, which the Agencies also had to consider and weigh in balancing the various competing objectives in multiple-use land management, such as the following:

- Make public lands available through ROWS or leases for such purposes as transportation routes, utilities, transmission lines, and communication sites, in coordination with other resource goals. Price Field Office Resource Management Plan (“RMP”)(emphasis added), p. 66.
- Maintain and acquire public access to meet resource management needs. RMP (emphasis added), p. 115.
- Make public lands available to meet the needs for smaller ROWs (e.g., roads or pipelines for oil fields). RMP (emphasis added), p. 115.
- Utilities and other special uses will be considered in in suitable areas and/or corridors based on need and overall benefit. Manti-La Sal Land and Resource Management Plan (“LRMP”), p. III-13.
- Act on special-use applications according to the following priorities: A. Land and use activity requests relating to public safety, health, and welfare, e.g., highways, powerlines and public service improvements. LRMP (emphasis added), p. III-37.

The proposed action and associated draft DN & FONSI are not inconsistent with any of the referenced Agency objectives, but rather strike an appropriate balance between the various competing multiple-use objectives.

D. Alternatives

The proposed action here is the approval of a ROW for the construction of the pipeline. The use of water from the Raw Water Pond in the plant, and the placement and use of unevaporated water from the plant into the irrigation pond, are not subject to federal approval and are not part of the proposed action. “Whether or not the requested permits are authorized does not affect the operation of the Huntington Power Plant or any permits that it operates under. The plant will continue to operate and utilize water in the raw water pond for its operation. Discharge permits will be in force and managed by UDWQ regardless of decisions made as a result of this [Revised] EA.” Revised EA, p. 11.

The proposed action is a ROW to construct the pipeline. In contrast, the connected action, as determined by USFS, is PacifiCorp’s plan to consume the intercepted groundwater from its Deer Creek mine in its Huntington plant operations. That process will include blending the intercepted groundwater water from the mine with the diverted water from Huntington Creek in the Raw Water Pond, then sending all of that blended water to the plant. All of that blended water will be consumed in the plant, except for a very small portion (approx. 3%) which will be further blended and diluted with other water as it is placed in the plant’s nearby irrigation pond. That water in the irrigation pond will then be irrigated onto the fields at the research farm upon approval from Utah DWQ in conjunction with PacifiCorp’s Ground Water Discharge Permit.

Sierra Club attempts to blur the line between the proposed federal action (a ROW for a gravity fed pipeline from the Rilda portal to the Raw Water Pond (“Rilda-to-Pond Pipeline)), and the private connected action (the use of the intercepted groundwater from PacifiCorp’s mine in PacifiCorp’s power plant operation).

Sierra Club also attempts to blur the line between the Agencies’ authority to impose and evaluate alternatives to PacifiCorp’s private connected action (*i.e.*, its selected method of managing the intercepted groundwater), which they lack, and the Agencies’ authority to evaluate the environmental impacts of the connected action, which they have. The Agencies have not contended that they “have no legal authority to evaluate water impacts” related to PacifiCorp’s selected method of managing the intercepted groundwater, as asserted by Sierra Club. Revised Comments, p. 5. The Revised EA simply asserts the Agencies have no authority or requirement to impose and evaluate alternative methods of managing the intercepted groundwater. Revised EA, p. 11. “Although the management of the water is a connected action under [NEPA], it is a non-federal action, and neither the FS nor the BLM is required to consider alternatives available to the non-federal party for its action.” *Id.*, p. 11. The impacts of the proposed action (*i.e.*, the Rilda-to-Pond Pipeline) are addressed primarily under the “Direct Impacts” section of the Revised EA, whereas the impacts of the connected action (*i.e.*, the management of the intercepted groundwater) are addressed primarily under the “Indirect Impacts” and the “Cumulative Impacts” sections of the Revised EA. *See* Revised EA, pp. 20, 21 & 24.

NEPA requires consideration of “alternatives to the proposed action,” not alternatives to private connected actions. 42 U.S.C. § 4332(C)(iii)(emphasis supplied). Although the Agencies may consider alternatives to the particulars of the proposed construction of the pipeline (*e.g.*, alternative alignment, alternative sizes, alternative piping material, alternative construction season, etc.) they were not required consider alternatives to the method of managing the

intercepted groundwater selected by a private entity. The applicable regulations go on to provide that the EA need only include “alternatives “that meet the need for action.” 36 C.F.R. § 220.7(b)(2). The “need” for the proposed action is set forth in the Revised EA: “The need for both BLM and FS is established by the agencies’ responsibilities under the Federal Land Policy and Management Act (FLPMA) to respond to PacifiCorp’s application for a Title V right-of-way. The BLM and FS have a statutory obligation to evaluate and respond to the SF-299 application according to 43 Code of Federal Regulations (CFR) 2800 and 36 CFR 251.54, respectively.” Revised EA, p. 3. The only alternatives that could possibly meet the need to respond to the application for the Rilda-to-Pond Pipeline would be to evaluate the proposed action (i.e., the Rilda-to-Pond Pipeline), or alternative alignments, sizes, piping material or construction seasons for the Rilda-to-Pond Pipeline, or no pipeline at all (the no-action alternative). The Agencies may have considered alternative types of Rilda-to-Pond Pipeline, but they certainly were not required to consider altogether different alternative methods to manage the intercepted groundwater (such as treatment, pumping to other locations, piping all the way down Huntington Canyon to the Town’s sewer treatment plant, etc.). Indeed, the Agencies recognized those very types of alternatives to a Rilda-to-Pond Pipeline, but rightly concluded such alternatives “were determined to be outside of BLM and FS decision authority and the scope of this analysis and were dismissed from further detailed analysis” Revised EA, p. 11.¹ The Agencies were not required to approve that proposed action; if the Agencies were concerned over the impacts of a Rilda-to-Pond Pipeline, they were free to simply deny the application.

The applicable USFS NEPA regulations go on to provide that “[w]hen there are no unresolved conflicts concerning alternative uses of available resources (NEPA, section 102(2)(E)), the EA need only analyze the proposed action and proceed without consideration of additional alternatives.” Here, from the Agencies’ perspective, there were no unresolved conflicts, and therefore the Agencies needed only analyze the proposed action without consideration of additional alternatives.²

¹ Sierra Club asserts “there is no factual basis for the FS/BLM’s claim that no other viable alternatives exist for disposing of the mine drainage,” and references as support PacifiCorp’s 2013 Antidegradation Review which discussed “potential alternatives for addressing the management of wastewater at the power plant site.” Revised Comments, p. 6. First, the Agencies did not claim that no viable alternatives exist for the connected action of managing the intercepted groundwater drainage, because the Agencies had no authority or requirement to consider alternatives to that private connected action. Yet even if the Agency had the authority to consider alternatives to the connected action, that there may have been reasonable alternatives for addressing the discharge of “wastewater at the power plant” does not mean that there were reasonable alternative for addressing the altogether different use of “intercepted groundwater” in the power plant. The “wastewater” from the power plant referenced in the Antidegradation Review was dramatically different than the intercepted groundwater water from the Rilda Canyon portal. The “wastewater” included water from collection systems installed to intercept leachate leaving landfill areas containing fly ash, bottom ash, slaker grits, pyrites and scrubber sludge, whereas the proposed pipeline contains mere “intercepted groundwater” from the mine. Antidegradation Review, p. 201. That an alternative action may be appropriate and reasonable for handling apples does not necessarily mean it would be appropriate and reasonable for handling oranges. Of note, even for that altogether different use of managing “wastewater,” most of the alternatives identified in that Antidegradation Review were deemed infeasible.

² In fact, the CEQ NEPA regulations relating to major federal actions requiring full-blown EISs only require the consideration of “reasonable alternatives....” 40 C.F.R. § 1502.14(a)(emphasis added). The Agencies were certainly well within their discretion in determining that the proposed action here did not require the consideration of

Finally, Sierra Club objects that the Revised EA “offers no further explanation for rejecting” those altogether different alternatives for the connected action. Revised Comments, p. 5. Although an explanation for why alternatives to the private connected action is not required, the Revised EA does offer further explanations. For example, as to the altogether different alternative of retaining the groundwater in the mine for discharge at the Deer Creek portals, the Revised EA explained that “MSHA and UDOGM will not allow water to be retained in the mine.” Revised EA, p. 11. As to the altogether different alternative of treating the water, the Revised EA explained that “[r]egardless of water quality, discharge of water at the Rilda Canyon portals is prohibited per UAC R317-2.” Revised EA, p. 11. The Rilda Canyon portals are within Category 1 waters, as defined by the Utah Administrative Code. U.C.A. R317-2. The Code further provides that new point source discharges, “treated or otherwise, are prohibited in such segments” *Id.*³

E. Ultimate Fate or Disposition of the Intercepted Groundwater

Sierra Club mistakenly asserts that the Agencies “fail[] to take a hard look” at the impact of the ultimate fate of the intercepted groundwater. Revised Comment, p. 6. On the contrary, the Revised EA (including the Plan-of-Development (“POD”) and the Supplemental Hydrology Report) explain the ultimate fate or disposition of the intercepted groundwater, and address its impacts. *See* Revised EA, pp. 1, 2, 18, 20, 21, 22 & 24 (“The addition of the intercepted groundwater would not affect the quality of the remaining 3% of the water that leaves the power plant....”); POD, p. 6 (“Of the 7,000-11,000 gpm of [blended] water used in plant operations, approximately 97 percent of the water is evaporated off. The remaining 3 percent is transferred to the irrigation storage reservoir and used on crop research fields. The water used for irrigation . . . is regulated by the Utah DEQ, Division of Water Quality by authorization of a Ground Water Discharge Permit. The permit requires that water quality be measured periodically in monitoring wells in order to maintain compliance with the Ground Water Discharge Permit.”); Supplemental Hydrology Report, pp. 1, & 7-11)(“Because there are no measurable changes to the water leaving the power plant, there are no measurable effects expected to the water in the irrigation pond or irrigation practices.”).

The ultimate fate or disposition of the intercepted groundwater has been exhaustively addressed in PacifiCorp’s previous submittals, including most recently its April 7, 2017 Comments re Agencies’ March 7, 2017 Revised EA, which included extensive comments under the following captions:

Comment #1 (the intercepted mine drain water will be **sent** to the lined Raw Water Pond; it will not be disposed of in unlined ponds or land application sites):

altogether different alternatives, based not only on the reasons referenced above, but also on the basis of economical infeasibility and the environmental risks associated with those altogether different alternatives.

³ Sierra Club suggests that the Agencies were required to consider alternatives wholly outside of any federal jurisdiction, and cites in support thereof a provision of NEPA, which provides that for major federal actions requiring full-blown EISs, agencies must evaluate reasonable alternatives, including “reasonable alternatives not within the jurisdiction of the lead agency.” 40 C.F.R. § 1502(14)(a)&(c). For such full-blown EISs, a lead agency may be required to consider reasonable alternatives not within the jurisdiction of that particular lead agency, but not private alternatives outside the jurisdiction of any federal agency, such as the altogether different alternatives suggested by Sierra Club here.

Comment #2 (the **fate** of the mine drain water is fully addressed in the Revised EA, including in the Plan of Development and the Supplemental Hydrology Report):

Comment #5 (iron in the mine drain water does not need to be treated because the drain water will be transported via the pipeline to the Raw Water Pond for **consumption**, not for discharging into a receiving drainage; all new point source discharges, treated or otherwise, are prohibited within National Forest boundaries):

Comment #6 (the Revised EA and Supplemental Hydrology Report adequately addresses the **fate** of the mine drain water, and analyses of the current baseline conditions and of the potential impacts of the use of the mine drain water):

Comment #8 (the Revised EA and Supplemental Hydrology Report satisfy the scientific requirements of NEPA, and confirm that the **blending** of the Huntington Creek water with the mine drain water will not cause any significant changes to the water in the Raw Water Pond):

Comment #10 (the Revised EA and associated hydrology analyses carefully considered and concluded that the blending of the Huntington Creek water with the mine drain water will not cause a significant geochemical change to the water stored in the **Raw Water Pond** (including the TDS concentrations)):

Comment #12 (water in the Raw Water Pond that remains after passing through the plant operations (approx. 3%) is used to irrigate the research farm, which has a **field drain collection system** to eliminate any potential diversion to Huntington Creek):

Comment #13 (Huntington Creek is “impaired” for TDS, pH, dissolved oxygen and temperature; the **blending** of the mine drain water in place of a portion of the water from Huntington Creek will mitigate that impairment):

Comment #14 (the blending of the mine drain water will **not alter** the concentrations of TDS in the water going to the irrigated research farm):

Comment #15 (the Revised EA and Supplemental Hydrology Report addressed the **fate** of the mine drain water):

Comment #18 (the Agencies adequately considered the **baseline** water conditions at all relevant locations, including downstream of the Raw Water Pond):

Rather than reiterate here the extensive discussions under the above-referenced captions in those April 7, 2017 Comments, PacifiCorp incorporates them herein by reference.

Sierra Club erroneously asserts that the Agencies “have a separate and independent duty to ensure that all water quality requirements and standards are met” Revised Comments, p. 6. The Agencies have a duty to evaluate the impacts of a proposed federal action on water quality, including whether the proposed action will violate applicable water quality standards, but the duty to ensure (by monitoring, inspection, enforcement or otherwise) that water quality

standards are met lies with Utah Department of Environmental Quality (“DEQ”) and/or the U.S. Environmental Protection Agency, not USFS and BLM. Indeed, the Agencies, through the Revised EA, did evaluate the impacts of the proposed action (and even the connected action of the ultimate disposition of the intercepted groundwater) on water quality, including any violation of applicable water quality standards or requirements. *See*, Revised EA.⁴ *See also* Supplemental Hydrology Report.⁵

The Agencies have not in any way excused their NEPA obligation to take a “hard look,” just because the PacifiCorp’s operations are under and subject to Utah DEQ issued UPDES and Groundwater Discharge Permits. Although Utah DEQ has dutifully monitored PacifiCorp’s compliance with those permits, even if it had not the Agencies would still have been obligated to take a hard look at the impacts of the proposed action and the connected action, which obligation they satisfied. As documented in the two previously referenced footnotes, the Agencies did evaluate the impacts of the proposed federal action and the private connected action on water quality, including any violation of applicable water quality standards. Notably, Sierra Club fails

⁴ More specifically, *see* p. 20 (“The discharged groundwater meets the EPA National Primary Drinking Water standards. When the groundwater is mixed with the diversion water in the raw water pond, the water would still meet EPA National Primary Drinking Water standards (USDA FS 2017b).”); p. 20 (“The state of Utah’s numeric criteria for aquatic wildlife has a 1 mg/L, maximum threshold for iron. The intercepted groundwater is expected to exceed this standard. However, once the groundwater is diluted with Huntington Creek water in the raw water pond, the water in the raw water pond would meet the Utah Numeric Criteria for Aquatic Wildlife for Huntington Creek 3C (USDA FS 2017b).”); p. 21 (“Implementation of the proposed action would not adversely affect water quality in the long-term, nor contribute to the existing water quality impairments defined by the Utah Department of Environmental Quality (USDA FS 2017b).”); p. 24 (“there should be no measurable cumulative effects to the water quality of the irrigation pond or subsequent irrigation practices. The addition of intercepted ground water would not change the amount of water stored in the raw water pond, or the amount of water used during cooling operations at the power plant. The addition of the intercepted groundwater would not affect the quality of the remaining 3% of the water that leaves the power plant. The addition of groundwater from the Deer Creek Mine will not affect the Huntington Power Plants cooling tower circulating water quality... The plants water treatment process controls TDS concentrations such that levels do not impair plant operations. Therefore, the addition of TDS from mine groundwater will not affect plant operations nor will there be measurable additions to the irrigation storage pond (USDA FS 2017b). Because there are no expected changes to the amount of water in the raw water pond, only slight changes in the water chemistry, and a controlled water treatment process in the cooling plant there are no measurable changes to the amount and quality of water leaving the power plant. Because there are no measurable changes to the water leaving the power plant, there are no measurable effects expected to the water in the irrigation pond or irrigation practices.”).

⁵ More specifically, *see* , p.7 (“Any potential adverse impacts to water resources would be short-term (during construction). Installation of the pipeline would also not affect shallow aquifers, because the pipeline would be installed in ground that is above the water table.”); p.9 (“Without dilution in the raw water pond, the discharged groundwater meets EPA primary drinking water standards (Appendix II). Once the groundwater is diluted with Huntington Creek Water in the raw water pond, the water in the raw water pond would meet the Utah Numeric Criteria for Aquatic Wildlife (Huntington Creek 3C).”); p. 9 (“Groundwater from Deer Creek Mine to the raw water pond will not contribute to the degradation of the underlying shale aquifer.”); p. 10 (“Implementation of the proposed action would not adversely affect water quality in the long-term, nor contribute to the existing water quality impairments defined by the Utah DEQ.”); p.10 (“Because the water would be within the limits set for aquatic life, no measurable direct effects are expected.”); p.11 (“Based on the available information and analysis, there are minimal direct and indirect effects to the water quality in the raw water pond. In addition, **there should be no measurable cumulative effects to the water quality of the irrigation pond or subsequent irrigation.**”)(emphasis in original).

to identify a single applicable water quality standard that the proposed action or the connected action would violate, let alone any support that the Agencies failed to evaluate such a violation.

F. Mitigation

Sierra Club erroneously asserts that the Revised EA “does not analyze or impose any mitigation measures” Revised Comments, p. 8. Moreover, Sierra Club erroneously asserts, without any reference to the Revised EA or elsewhere, that the Agencies claim they lack authority to impose appropriate mitigation measures when warranted. Revised Comments, p. 7. Although the CEQ NEPA regulations for Major Federal actions requiring the preparation of full EISs contemplate the inclusion of mitigation measures, even those regulations only require any “appropriate mitigation measures not already included in the proposed action or alternatives.” 40 C.F.R. §1502.14(f).⁶ Here, the appropriate mitigation measures had already been included in the proposed action (*i.e.*, the construction of the pipeline). *See* Revised EA, p. 22 (“mitigating adverse impacts based on field surveys prior to surface-disturbing actions”), *Id.*, Appendix B, p. 35 (“there will be no impact to the pipeline due to proximity mitigation”), POD-15 (“Impacts to eligible sites will be avoided where possible. If cultural resources cannot be avoided, mitigation will be applied”), POD-125 (“discovery protocol will be followed to ensure the proper identification, evaluation, and mitigation of adverse impacts to the resource.”). Also already included in the proposed action is a continuous monitoring/leak detection system that includes two meters built into the pipeline to monitor the flow within the pipeline. One of the meters (the upper vault) is located at the top of the pipeline near the Rilda portal, and the other meter is located at the bottom of the pipeline near the Raw Water Pond. *See* Deer Creek Mine Permit (approved by DOGM 4/7/17), Volume 9 (Hydrologic Section), Appendix A-1, Rilda Canyon Pipeline, Map HM-1, Volume 11, Appendix I, Design Drawing. Any leak in the pipeline would be reflected by a flow differential between the upper and lower monitors. In addition to monitoring the flow, the quality of the intercepted water in the pipeline will be regularly sampled. *Id.*, Volume 9, Hydrologic Section, Map HM-1A. The flow monitoring results and the intercepted groundwater quality sampling results will also be provided to the Utah Division of Oil, Gas and Mining. In light of the ample mitigation measure already included in the proposed action, there is no need or requirement for any additional mitigation measures.

Although mitigation measures are not required for the connected action (*i.e.*, the disposition of intercepted water for use in the power plant), a private action falling outside the authority of the Agencies, because the Revised EA concluded that “there should be no measurable cumulative effects to the water quality of the irrigation pond or subsequent irrigation,” *see* Supplemental Hydrology Report, p. 11 (emphasis in original), there was no need for any additional mitigation measures there either. Indeed, the CEQ regulations define “mitigation” as avoiding, minimizing, rectifying, reducing or compensating for any “impacts.” 40 C.F.R. § 1508.20. If there are no actual or even reasonably anticipated adverse impacts, there is obviously no need or requirement for mitigation. Sierra Club includes a lengthy quotation from *South Fork Band Council v. Dept. of Interior*, 588 F.3d 718, 727 (9th Cir. 2009), which addressed the extent of mitigation needed for recognized anticipated environmental impacts. Revised Comment, p. 8. Here, because the Agencies properly concluded that there were no

⁶ Notably, that section of the CEQ regulations identifying what shall be included in a mere “Environmental Assessment” as here does not include any mitigation measures. 40 C.F.R. § 1509(b).

recognized or anticipated environmental impacts, there was no need, let alone any requirement, to address the extent of mitigation needed.⁷

III. SPECIFIC ISSUES

A. **Updated Wildlife Resources Report**

Most of the issues raised in this section of Sierra Club's Revised Comments have already been amply addressed in PacifiCorp's previous submittals. A few issues warrant additional discussion, as addressed below:

As to page 9 of Sierra Club's Revised Comments, first full paragraph (re alternatives): See section II.B and C. above. The Updated Wildlife Resources Report ("UWRR") analyzes the same alternatives that were analyzed in the Revised EA.

As to page 9 of the Revised Comments, second paragraph (re BA/BE): The purpose of the UWRR is to address management indicator species ("MIS") and other species of concern not already addressed in the BA/BE.

As to page 9, third paragraph (re Table 1): Although the Table does not identify whether the MIS will be analyzed further, all MIS listed in the Table are analyzed in the UWRR. The analysis of impacts to macroinvertebrates is found on pages 10-12.

As to page 9, fourth paragraph (re Raw Water Pond, aka settling pond): The terms Raw Water Pond and settling Pond can be used interchangeably. Water ("Raw") is diverted directly from Huntington Creek upstream of the plant and allowed to "settle" prior to being used in plant operations. However, the term settling pond rather than pond should be used, as there is only one pond for the diversion of the water from Huntington Creek. See Supplemental Hydrology Report, as shown at p. 12.

As to page 9, fifth paragraph (re cumulative effects): See section II.D. above.

As to page 9, sixth paragraph (re Forest Plan): Until such time as the current Forest Plan is amended, the current Forest Plan remains effective. It is beyond the scope of the administrative NEPA action to compel a revision of the current Forest Plan.

⁷ Sierra Club also asserts that the Agencies should have imposed as a mitigation measure for the connected action an additional supplemental (or double) liner for the Raw Water Pond. Revised Comment, p. 8. The Agencies were well within their discretion in concluding that the existing single, rather than a double, triple or quadruple, liner was sufficient. Sierra Club also asserts the Agencies should have imposed as a mitigation measure a "prohibition on land application of wastewater at the research farm and . . . implementation of a . . . wastewater management protocol. Revised Comment, p. 8. Such a mitigation measure may be appropriate for a proposed federal action where "wastewater" is being discharged, but not here for a private connected action, and certainly not here for a private connected action where "wastewater" is not being discharged; in fact, nothing is being "discharged" here. Sierra Club also asserts that the Agencies should have imposed "sampling of the future mine drainage discharge to Deer Creek . . . , and sampling of Huntington Creek" Revised Comment, p. 8. Again, such a mitigation measure may be appropriate for a proposed federal action involving discharges into Deer Creek or Huntington Creek, but any such future discharge here are speculative and not part of the proposed action.

As to page 9, seventh paragraph (re macrobenthic organisms): The preliminary “finding of no significant impact” determination was based on the assumed presence of macroinvertebrates, and the absence of potential impacts based on project design.

B. Updated BA/BE

Most of the issues raised in this section of the Revised Comments have already been amply addressed in PacifiCorp’s previous submittals. A few issues warrant additional discussion, as addressed below:

As to page 10 of the Revised Comments, first paragraph (re alternatives): If the shut-off valve were closed, it would be for repair work on a very temporary basis. Because in the off position there would be no discharge from the mine portal, there would obviously be no adverse environmental impacts.

As to page 10, second paragraph (re leak detection): The proposed action already incorporates a continuous monitoring/leak detection system that includes two meters built into the pipeline to monitor the flow within the pipeline. One of the meters (the upper vault) is located at the top of the pipeline near the Rilda portal, and the other meter is located at the bottom of the pipeline near the Raw Water Pond. *See* Deer Creek Mine Permit (approved by DOGM 4/7/17), Volume 9 (Hydrologic Section), Appendix A-1, Rilda Canyon Pipeline, Map HM-1, Volume 11, Appendix I, Design Drawing. Any leak in the pipeline would be reflected by a flow differential between the upper and lower monitors.

As to page 10, third paragraph (re sensitive species): Sensitive, threatened, and endangered species that may occur within the project area are identified in Tables 1 and 2. Potential for occurrence and whether the species will be further evaluated are also addressed in Tables 1 and 2. Only those species that may occur or are known to occur are evaluated further.

As to page 10, fourth paragraph (re cumulative effects): *See* section II.D. above.

As to page 10, fifth paragraph (re raptors): Potential impacts to raptor species that may occur in the project area are disclosed on pages 16-20.

As to page 10, fifth paragraph (re inventories): The best available science and inventories were used in the analyses.

C. Updated Hydrology Report

Most of the issues raised in this section of the Revised Comments have already been amply addressed in PacifiCorp’s previous submittals. A few issues warrant additional discussion, as addressed below:

As to page 11 of the Revised Comments, first full paragraph, last five sentences (re Deer Creek portal discharge): The above sentences demonstrate that Sierra Club does not understand the overall hydrology related to mine dewatering, either in active mine status or in post mine closure, for the Deer Creek Mine. PacifiCorp’s approved UPDES (UT0023604) permit for the Deer Creek Mine includes two outfalls; 001 – Sediment Pond (storm runoff control facility) and

002 – Mine Water Discharge in Deer Creek Canyon. The Utah DWQ renewed the Deer Creek UPDES permit effective February 1, 2015. During the renewal process, DWQ analyzed the water quality characteristics of the Deer Creek Mine outfalls, including the total projected mine discharge from all sources (southern and northern portions of the mine), and receiving drainages (Deer Creek and Huntington Creek), including conducting an Antidegradation Review. The limitation in the UPDES permit for Total Dissolved Solids (“TDS”) set by DWQ for the Deer Creek Mine is 1200 mg/L, daily maximum, sampled downstream of Outfall 002. There is no tons per day loading limit if the concentration of TDS in Deer Creek is equal to or less than 500 mg/L as a thirty day average. However, if the 30-day average concentration exceeds 500 mg/L, then the permittee cannot discharge more than one ton per day. If the permittee cannot achieve one ton per day, the permittee will be required to remove salinity/TDS in excess of one ton per day. PacifiCorp applied for and received approval from DWQ to participate in a salinity off-set program if salinity/TDS exceeds one ton per day. After sealing of the Deer Creek portals was completed in April 2015, there has been no discharge from the Deer Creek Mine. Current sampling results of intercepted groundwater projected to drain from the Rilda Canyon portals indicate that TDS will be below the Colorado salinity limitations of less than 500 mg/L and less than one ton per day.

As to page 11 of the Revised Comments, second full paragraph (re Deer Creek portal discharge): The referenced CHIA is available on-line from the Utah DOGM.

As to page 11, third full paragraph (re sampling locations): The USFS hydrologist utilized publicly available data to demonstrate the effect of the natural deterioration of water quality (increased TDS) caused by contact with the Mancos Shale Formation. This natural deterioration of water quality is independent of human-caused factors. The outcrop of the Mancos Shale occurs at and up-canyon from the Huntington Plant/Deer Creek Mine and the influence of the Mancos Shale on water quality cannot be overstated. The U.S. Geological Survey documented the influence of the Mancos Shale on water quality of Central Utah, including Huntington Creek, in Open File Report 83-38 “Hydrology of Area 56, Northern Great Plains and Rocky Mountain Coal Provinces.”

As to page 12, first full paragraph (re construction): As stated in the Revised EA and the POD, PacifiCorp proposes to construct/bury a HDPE pipeline within the existing ROW in Rilda Canyon along Emery County Road #306 and Huntington Canyon State Highway 31. Construction layout and installation techniques employed will avoid impacts to the streams in Rilda and Huntington canyons. PacifiCorp coordinated these pipeline construction efforts with the Utah Division of Water Rights and the U.S. Army Corps of Engineers. Both agencies verified that neither a Utah (stream alternation permit) nor a Corps of Engineers (404 permit) is required for the proposed Deer Creek Mine water relief pipeline project. Even if such permits were required, it is not USFS’s responsibility under NEPA to ensure that a proponent obtains the needed permits; rather, USFS’s responsibility is simply to take a hard look at the reasonably foreseeable environmental impacts. It is the proponent’s responsibility to obtain the needed permits. PacifiCorp will implement a SWPPP to prevent/mitigate potential impacts associated with construction, regarding and reclamation of the pipeline corridor.

As to page 12, second full paragraph (re dilution): PacifiCorp has conducted extensive hydrologic monitoring related to the Deer Creek Mine including: groundwater studies (seeps and

springs), intercepted groundwater in the mine and surface drainage systems. Routine hydrologic data collected by PacifiCorp is uploaded to the DOGM database and has been made available to the Agencies. In addition to the hydrologic monitoring, PacifiCorp has conducted numerous studies to characterize the hydrologic regime and potential hydrologic consequences of conducting underground coal mining. Applicable data related to the proposed mine drain pipeline was transmitted to the Agencies to evaluate the hydrologic data and conclusions.

As to page 12, second and third paragraphs (re Raw Water Pond liner): When leaks were identified in the past, PacifiCorp made immediate repairs to the liner system. PacifiCorp conducts routine inspections of the Pond, including of the dam and embankment structures to verify integrity. As part of the EA process, PacifiCorp provided a hydrologic analysis to the governmental agencies comparing the diverted water from Huntington Creek to the projected blended ratio including the intercepted groundwater from the Deer Creek Mine. That analysis concluded that blending the Huntington Creek water with the intercepted groundwater from Deer Creek will cause insignificant geochemical change to the water stored in the Raw Water Pond. In the event of a future leak in the Raw Water pond liner, the relatively small percentage of mine water in the Raw Water pond will cause no environmental harm to the hydrologic balance. (See PacifiCorp's 4/7/17 Comment (#10) for a discussion of mine water compliance to the Numeric Criteria for Aquatic Wildlife – 3C). In addition, PacifiCorp transmitted professionally engineered and stamped design drawings of both the Raw Water Pond and the irrigation reservoir to the Agencies verifying the clay liner construction details. As for the calculation methods used for compaction, the Agencies have already been provided with the cited ASTM reference used to verify the constructed density of the clay liner.

As to page 13, first full paragraph, first three sentences (re TDS): Piping mine water to the Raw Water Pond (that will be approximately 3% of the total water in the pond) will not alter the operation of the plant. This means that the combined water from the Raw Water Pond will continue to be used in plant operations using existing operational constraints just as it was used before the mine water was introduced. For example, if the mine drainage water flow rate diverted to the plant is 500 gpm and the average diversion of Huntington Creek is 8,500 gpm, and knowing that approximately 97% of the combined diverted water is evaporated, mainly by the cooling towers and boiler vents, approximately 15 gpm of the mine water diversion will pass through the plant and be routed to the irrigation reservoir as a portion of the combined plant process water. However, regardless of whether the water supply to the Raw Water Pond is only from Huntington Creek or includes the proposed mine water addition, total pass-through from the plant operations to the irrigation pond will remain constant. The Deer Creek mine water has an increased TDS concentration as compared to the Huntington Creek supply; however, the Huntington plant cooling tower circulating water quality is controlled through a water treatment process such that the TDS concentration of the circulating water will not be affected by the use of the supplemental Deer Creek mine supply. In essence, although the fraction of the make-up water supply to the Huntington cooling tower circulating water system from the Deer Creek Mine will have an increased TDS concentration as compared to the Huntington Creek water supply, the cooling tower circulating water system will be controlled to maintain the current TDS concentration.

As to page 13, first full paragraph, fourth sentence (re irrigation reservoir): As explained immediately above, the operation and water quality of the irrigation reservoir will remain constant.

As to page 13, first full paragraph, remaining sentences (re irrigation farm and pipeline): A request for a cease and desist order is clearly way beyond the scope of this administrative NEPA review. The proposed action (a ROW to construct a pipeline from the Rilda portal to the Raw Water Pond) is indeed the PacifiCorp's contemplated near term plan for the management of the intercepted groundwater, which is what the subject Revised EA is all about.

As to page 13, second full paragraph (re TDS in plant operation): Again, Sierra Club does not understand the water usage system of the Huntington power plant. Water from the Raw Water Pond is mainly used/consumed in the cooling towers. As stated in the Supplemental Hydrology Report, the water is recycled six to seven times through the system. This cooling water system is a semi-closed circuit replenishing evaporation with water from the Raw Water Pond and disposing of the used water to the irrigation reservoir. The statement above indicating that the TDS of the cycled water will elevate is correct. The plant monitors the water quality to attain and not exceed a set TDS level prior to dispensing the water to the irrigation reservoir. Introduction of the mine water to the Raw Water Pond will not alter the operation of the plant or the irrigation reservoir.

As to page 13, third full paragraph (re water monitoring): PacifiCorp committed to monitoring the mine water drainage as a function of the comprehensive hydrologic monitoring plan approved by Utah DOGM. Inclusion of the post mine drainage from the Rilda Canyon portals was approved by DOGM on April 7, 2017. PacifiCorp's Deer Creek Mine hydrologic monitoring data is uploaded to a publicly available site operated by DOGM on a quarterly basis.

D. Draft Decision Notice and FONSI

In connection with the Agencies' joint issuance of the Revised EA, USFS issued a draft Decision Notice ("DN") & Finding of No Significant Impact ("FONSI"), and BLM issued a brief unsigned FONSI. As to USFS's draft DN & FONSI, the Revised Comments do not include any comment or objection. As to BLM's unsigned FONSI, it asserts that the assertion that "with applicable mitigation measures" the proposed action would not result in significant impacts. Sierra Club contends that this assertion is unsupportable because the Revised EA and its supporting documentation purportedly "fail to analyze or implement an[y] mitigation measures." Revised Comments, p. 13. This contention is simply wrong. As fully addressed in section II.F. above (Mitigation caption), the appropriate mitigation measures had already been identified, designed and included within the proposed action. See section II.F. above for full description and references to the record.

Finally, Sierra Club asserts that "as established in these comments, the [Revised] EA reveals that the proposed project . . . will have significant individual and cumulative adverse effects . . . and therefore the agencies must prepare an environmental impact statement" Revised Comments, p. 14-15. Although the comments identify various issues that purportedly

were not adequately evaluated, the comments do not establish, and do not even purport to establish, that the proposed action will actually have significant adverse effects. The Agencies' preliminary determinations in the draft and unsigned "Findings of No Significant Impact" are warranted and supported in the record.

E. Joint Revised EA⁸

As to page 14 of Revised Comments, first full paragraph (re lined Raw Water Pond): Page 1 of the EA does NOT state, and the proposed action does not contemplate, that "wastewater" will be "disposed of" in settling ponds at the Huntington power plant. Revised Comments, p. 14. Rather, intercepted groundwater will be sent to and used in the plant, after it has been significantly blended and significantly diluted in the Raw Water Pond. Although not imperative, it would perhaps be more accurate to substitute "lined Raw Water Pond" in for the term "settling ponds." See 4/7/17 Comments, #1, for elaboration on the nature of the liner. As to Sierra Club's request for additional maps showing various features of the plant, it appears Sierra Club is trying to use this administrative NEPA proceeding to obtain information more relevant to separate litigation against PacifiCorp; Sierra Club should use civil discovery means in that litigation for such information.

As to page 14, second full paragraph (re cumulative effects): The NEPA regulations require evaluation of the "incremental impact of the action when added to other past, present, and reasonably foreseeable future actions." 40 C.F.R. §1508.7. The Revised EA recognizes and acknowledges that activities at "the Deer Creek Mine have also impacted the area" Revised EA, p. 22. Because the intercepted groundwater will not be discharged into Deer Creek or Huntington Creek, it will not present any incremental impacts or cumulative effects on Huntington Creek. The proposed action does, however present some cumulative effects, which were thoroughly evaluated. See Revised EA, pp. 22-25.

As to page 14, third full paragraph (re scope of sampling): PacifiCorp has collected hundreds of samples documenting the quality of the intercepted groundwater at the Deer Creek Mine. All water, whether surface or groundwater will include minor amounts of inorganic compounds, such as salts and metals. Utah DWQ requested that PacifiCorp sample the intercepted groundwater for the pollutant parameters on EPA's Priority Pollutant List, and analyze to comply with the EPA Form 2C requirements. The Agencies acted well within their discretion in relying on Utah DWQ and EPA for the appropriate scope of sampling. See 4/7/17 Comments (#9), for more detail.

As to page 15, first - fourth full paragraph (re iron): There is nothing misleading about the elaboration in the Revised EA that "some" of the intercepted groundwater had total iron concentrations that were elevated above background levels. Revised EA, p. 2. Indeed, it is important to understand that the only elevated iron levels in the water coming from the Rilda portal was in a single elevated sulfur zone in the form of pyrite (FeS₂). That the combined waters in the Rilda portal historically exceeded the applicable iron standards is now somewhat irrelevant in that, as predicted, those iron levels have continued to decrease and are now in

⁸ It appears Sierra Club is trying to use this administrative NEPA proceeding, and this particular section of its Revised Comments, to surreptitiously discover information for its separate parallel litigation against PacifiCorp in federal court; Sierra Club should use civil discovery means in that litigation for such information.

compliance with the iron standard. Supplemental Hydrology Report, pp. 3 (diagram showing declining trends) & 6 (recent data showing levels below applicable standard). The referenced UPDES permit includes an already approved outfall into Deer Creek.

As to page 15, fifth full paragraph (re iron): Although immaterial to the validity of NEPA, it may be more accurate to revise the reference statement to say “to prevent a prohibited discharge within Category 1 waters” The intercepted groundwater will be used at the plant; it will not be discharged into any surface water, and it does not require a UPDES or any other permit.

As to page 15, sixth full paragraph (re sensitive species): The Revised EA does include an analysis of the impacts on the two referenced BLM sensitive fish species. “Construction of the pipeline will occur on the opposite side of the road from the creek and creek crossings will be above the creek on existing structures. Therefore construction of the pipeline should not have any direct impacts to these species. In addition the intercepted water meets primary drinking water standards. If a leak occurred, based on the projected levels of iron in the mine water and the level of iron within Huntington Creek, the iron levels would be diluted to be under the numeric criteria for iron and safe for fish. All water management would be in accordance with current UPDES permits, therefore no impacts expected to water quality or to the fish. Revised EA, Interdisciplinary Team Checklist, p. 38.

As to page 16, first full paragraph (re UPDES permit): The UPDES permit issued by Utah DWQ to PacifiCorp, with renewed effective date of February 1, 2015, authorizes discharge of mine drainage from Deer Creek mine.

As to page 16, first full paragraph (re UPDES permit): See section II.D. above.

As to page 16, third and fourth full paragraph (re connected action): See sections II.B and II.D. above.

As to page 16, last paragraph (re UPDES permit): PacifiCorp’s current Deer Creek UPDES permit already has two authorized outfalls, and PacifiCorp has a pending application for an additional outfall for the intercepted groundwater from the Rilda portal. The Revised EA, as well as the Supplemental Hydrology Report, do indeed address whether a future discharge of the intercepted groundwater would violate the applicable water standards. See Revised EA, p. pp. 20 & 24; Supplemental Hydrology Report, pp. 6-11.

As to page 17, first full paragraph (re aquatic species): The Revised EA addresses the referenced aquatic species. See *Updated Wildlife Resources Report and Updated BA/BE*. See also, sections III.A. and III.B. above. That the waters in the Rilda portal historically exceeded the applicable iron standards is now somewhat irrelevant in that, as predicted, those iron levels have continued to decrease and are now in compliance with the iron standard. Supplemental Hydrology Report, pp. 3 (diagram showing declining trends) & 6 (recent data showing levels below applicable standard). Any leak from the pipeline would not need to be diluted in order to be compliant with the applicable iron standard.

As to page 17, second full paragraph (re line and land application): See section II.C. above.

As to page 17, third full paragraph (re cumulative effects of mines): See sections II.D and II.E. above.

As to page 17, fourth full paragraph (re cumulative effects of future Deer Creek discharge): See sections II.D and II.E. above.

Thank you for your consideration.

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